



# United States Department of the Interior

## FISH AND WILDLIFE SERVICE

P.O. Box 1306  
Albuquerque, New Mexico 87103

February 4, 2020



In Reply Refer To:  
FWS/RD-WSFR

Scott Thompson, Executive Director  
Oklahoma Department of Environmental Quality  
P.O. Box 1677  
Oklahoma City, Oklahoma 73101-1677  
DUNS: 933601569

Attn: Cheryl Dirck, PPCTA

Subject: Notice of Grant Award F19AP00437, Amendment No. 1

Dear Mr. Thompson:

The Oklahoma Department of Environmental Quality's (Department) application for Federal financial assistance, Amendment No. 1, titled OK V-20-D-1 CVA Pump-outs submitted to the U.S. Fish and Wildlife Service's (Service) CFDA Program number 15.616, is approved for a change in scope of work (removal of two projects: Arrowhead Yacht Club and Eufaula Cove; addition of one project: Strayhorn Marina). This award is made under the authority of the Clean Vessel Act Grant Program and is based on the Service's approval of the Department's application, hereby incorporated by reference into this award. For a complete list of this program's authorizing legislation, go to <https://beta.sam.gov/> and search by the CFDA Program number. Funds under this award are to be used to install five CVA pump-out facilities at the Strayhorn Marina, Newberry Creek Resort & Marina, Redbud Marina & RV Park, and Evergreen Marina; and purchase a pump-out boat at the Evergreen Marina.

The grant period of this award is June 18, 2019 through May 30, 2020. The effective date for this amendment is January 24, 2020. Only allowable costs resulting from obligations incurred during the grant period and any authorized pre-award costs may be charged to the award. All obligations incurred under the award must be liquidated no later than 90 calendar days after the end of the grant period, unless the Service approves a final financial reporting period extension.

The Department has completed enrollment in U.S. Treasury's Automated Standard Application for Payment (ASAP) system. When requesting payment in ASAP, your Payment Requestor will be required to enter an Account ID. When entering the Account ID in ASAP, the Payment Requestor should enter the Grant Award number identified in the subject line on letter followed by a percent sign (%). Refer to the ASAP.gov Help menu for detailed instructions on requesting payments in ASAP.

The Department is eligible to request Federal obligated funds up to but not in excess of an amount equal to **75** percent of the total project expenditures.

Awards are based on the application and supporting documents submitted to and approved by the Service. Acceptance of this grant award carries with it the responsibility to be aware of and comply with Program legislation, Federal regulations, special award terms, conditions, and provisions, including those assurances submitted annually by the Department. Acceptance is defined as the start of work, drawing down funds, or accepting the award via electronic means. The Federal regulations applicable to Service awards are listed by recipient type in the **Service Financial Assistance Award Terms and Conditions** posted at <http://www.fws.gov/grants/>. The “Department of the Interior (DOI) Award Provisions” attached to this Notice of Award also apply (Attachment A). If you do not have access to the Internet and require a printed copy of the award terms and conditions, contact the Service Project Officer identified in the Project Contacts section.

This following Terms, Conditions and Provisions are applicable to this award:

1. Reporting requirements are as follows:

<b>Report Title</b>	<b>Report Period</b>	<b>Due Date</b>
Final Federal Financial Report (SF-425)	June 18, 2019 to May 30, 2020	August 28, 2020
Final Performance Report	June 18, 2019 to May 30, 2020	August 28, 2020

- a) All required reports must be sent to [fw2fa@fws.gov](mailto:fw2fa@fws.gov). Cost accounting is required at the subaccount level. The Standard Form (SF) 425, Federal Financial Report must be used for all financial reporting and is available at [http://www.whitehouse.gov/omb/grants\\_forms](http://www.whitehouse.gov/omb/grants_forms). For additional information regarding financial reporting requirements, including sanctions for noncompliance, please reference <http://www.fws.gov/policy/516fw1.html>.
- b) Performance reports must contain: a) the Service award number identified in the subject line of this letter; b) a comparison of actual accomplishments with the goals and objectives of the award as detailed in the approved scope of work outline in the proposal; c) a description of reasons why established goals were not met, if appropriate; and d) any other pertinent information relevant to the project results. For additional information regarding performance reporting requirements, including sanctions for noncompliance, please reference <http://www.fws.gov/policy/516fw2.html>.
- c) Financial and performance reporting due dates may be extended by the Service upon receipt of a written request addressed to the Service at [fw2fa@fws.gov](mailto:fw2fa@fws.gov) identifying the type of report to be extended, the requested revised due date, and a justification for the extension. Requests for reporting due date extensions must be received by the Service no later than **1 day before** the original reporting due date.
- d) Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, notify the Service

- Project Officer in writing as soon as the following types of conditions become known: 1) Problems, delays, or adverse conditions that will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of any corrective action(s) taken or contemplated, and any assistance needed to resolve the situation and/or; 2) favorable developments that enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.
- e) Recipients are responsible for notifying the Service Project Officer in writing of any conflicts of interest that arise during the life of this award, including those reported to them by any subrecipient under the award. Conflicts of interest include any relationship or matter that might place the recipient, including their employees and subrecipients, in a position of conflict, real or apparent, between their responsibilities under the award and any other outside interests. Conflicts of interest include direct or indirect financial interests; close personal relationships; positions of trust in outside organizations; consideration of future employment arrangements with a different organization; and decision-making authority related to the proposed project. Conflicts of interest are those circumstances real or perceived that would cause a reasonable person with knowledge of the relevant facts to question the impartiality of the recipient, or the recipient's employees or subrecipients, in matters pertaining to the award. Recipients must notify the Service in writing if any employees, including subrecipient and contractor personnel, are related to, married to, or have a close personal relationship with any Federal employee within the Federal program issuing this award. The term employee means any individual engaged in the performance of work under the Federal award. Recipients may not have a former Federal employee as a key project official, or in any other substantial role related to their award, whose participation put them out of compliance with the legal authorities addressing post-Government employment restrictions. The Service will examine each conflict of interest disclose based on its particular facts and nature of the project and will determine if a significant potential conflict exists. If it does, the Service will work with the recipient to determine an appropriate resolution. Failure to disclose and resolve conflicts of interest in a manner that satisfies the Service may result in any of the remedies described in 2 CFR 200.338 Remedies for Noncompliance, including termination of this award.
2. Indirect costs under this award are approved on the condition that the Department will submit an indirect cost rate proposal to their cognizant agency immediately after the award is made and no later than 90 calendar days past the award project period start date. The Department is not authorized to charge indirect costs under this award until the Department has received, and provided a copy to the Grants Fiscal Officer at [fw2fa@fws.gov](mailto:fw2fa@fws.gov), an approved Negotiated Indirect Cost Rate Agreement (NICRA) from the Federal government. In the event the Recipient fails to establish an approved rate before the end of the award project period, the Service may either: 1) deobligate the Federal amount budgeted for indirect costs and, if not otherwise prohibited by legislation or regulation, allow the Department to use costs otherwise allocable as indirect costs to satisfy cost-sharing or matching requirements; or 2) allow the Department to transfer the

amount otherwise allocable as indirect costs to direct costs. Service approval of such budget changes will depend on the particular award circumstance. Indirect costs otherwise allocable to this award may not be shifted to another Federal award unless specifically authorized by legislation.

If the Department has submitted an indirect cost rate proposal to the cognizant agency within the required timeframe but the cognizant agency has delayed approval of the proposal, the Recipient must provide to the Service at [fw2fa@fws.gov](mailto:fw2fa@fws.gov) a letter containing the submitted rate, the name of the cognizant agency, and evidence of the proposal submission date in the form of either a copy of an emailed submission or written confirmation of the proposal receipt date from the cognizant agency. The Service may, upon review of the documentation and consultation with the cognizant agency, give written approval to the Department to charge indirect costs at their proposed rate until their proposal is approved. Service approval to charge indirect costs based on a proposed rate will depend on the circumstance; the Service will not approve a Department to charge indirect costs based on a proposed rate if rate approval delays are due to the Department having submitted a late, incomplete or inaccurate proposal. The Department must receive prior written approval from the Service before charging indirect costs based on a proposed rate. The award may be subject to further revision if the approved rate is higher or lower than the proposed rate.

3. Under the terms and conditions of this award, your organization must maintain an active SAM registration at <https://www.sam.gov/portal/public/SAM/> until the final financial report is submitted or final payment is received, whichever is later. If your organization's SAM registration expires during the required period, the Service will suspend payment under this and all other Service awards to your organization until you update your organization's SAM registration.
4. The Department is permitted to re-budget within the approved direct cost budget to meet unanticipated requirements and may make limited program changes to the approved project. However, certain types of post-award changes in budgets and projects shall require the prior written approval of the Service. Refer to **2 CFR 200.308 (c)(1-7)** for additional information on the types of changes that require prior written approval.
5. If additional time is needed to complete the approved project, you must send a SF-424 and written notice to the Service. The SF-424 and written notice must be received by the Service at least **10 calendar days** before the authorized project period end date, and must include supporting reasons and revised end date. Extensions for time cannot be authorized for the purpose of spending an unused balance of funds that remains after the approved project activities have been completed.
6. During the grant period, an SF-424 and written notice must be sent to the Service at [fw2fa@fws.gov](mailto:fw2fa@fws.gov) to add or delete a project, increase or decrease the Federal funds, and increase the rate of Federal participation.
7. The Service concurs with the useful life of **10** years that the State proposed for each capital improvement that will be constructed or rehabilitated under this grant agreement.

For capital improvements with a value greater than \$100,000, please reference the method used for the determination.

8. All Grant conditions identified in previous award letter(s) remain in effect.

<b>The Service Grant Manager for this award is:</b>	<b>The Federal Aid Coordinator for this award is:</b>
Kelly Oliver-Amy WSFR – USFWS P.O. Box 1306 500 Gold Ave. SW., Room 8518 Albuquerque, NM 87102 505-248-7457 Kelly_Oliver-Amy@fws.gov	Cheryl Dirck Oklahoma Department of Environmental Quality P.O. Box 1677 707 N. Robinson Oklahoma City, OK 73101-1677 405-702-8179 Cheryl.Dirck@deq.ok.gov

Please contact the Service Grant Manager with any questions or concerns about the terms of this award.

Sincerely,



Cliff Schleusner, Chief  
Wildlife and Sport Fish Restoration Program

Enclosures

## **Attachment A: DOI Award Provisions**

### **I. Conflicts of Interest**

#### **(a) Applicability.**

(1) This section intends to ensure that non-Federal entities and their employees take appropriate steps to avoid conflicts of interest in their responsibilities under or with respect to Federal financial assistance agreements.

(2) In the procurement of supplies, equipment, construction, and services by recipients and by subrecipients, the conflict of interest provisions in 2 CFR 200.318 apply.

#### **(b) Requirements.**

(1) Non-Federal entities must avoid prohibited conflicts of interest, including any significant financial interests that could cause a reasonable person to question the recipient's ability to provide impartial, technically sound, and objective performance under or with respect to a Federal financial assistance agreement.

(2) In addition to any other prohibitions that may apply with respect to conflicts of interest, no key official of an actual or proposed recipient or subrecipient, who is substantially involved in the proposal or project, may have been a former Federal employee who, within the last one (1) year, participated personally and substantially in the evaluation, award, or administration of an award with respect to that recipient or subrecipient or in development of the requirement leading to the funding announcement.

(3) No actual or prospective recipient or subrecipient may solicit, obtain, or use non-public information regarding the evaluation, award, or administration of an award to that recipient or subrecipient or the development of a Federal financial assistance opportunity that may be of competitive interest to that recipient or subrecipient.

#### **(c) Notification.**

(1) Non-Federal entities, including applicants for financial assistance awards, must disclose in writing any conflict of interest to the DOI awarding agency or pass-through entity in accordance with 2 CFR 200.112, Conflicts of Interest.

(2) Recipients must establish internal controls that include, at a minimum, procedures to identify, disclose, and mitigate or eliminate identified conflicts of interest. The recipient is responsible for notifying the Financial Assistance Officer in writing of any conflicts of interest that may arise during the life of the award, including those that have been reported by subrecipients.

(d) Restrictions on Lobbying. Non-Federal entities are strictly prohibited from using funds under this grant or cooperative agreement for lobbying activities and must provide the required certifications and disclosures pursuant to 43 CFR Part 18 and 31 USC 1352.

(e) Review Procedures. The Financial Assistance Officer will examine each conflict of interest disclosure on the basis of its particular facts and the nature of the proposed grant or cooperative agreement, and will determine whether a significant potential conflict exists and, if it does, develop an appropriate means for resolving it.

(f) Enforcement. Failure to resolve conflicts of interest in a manner that satisfies the Government may be cause for termination of the award. Failure to make required disclosures may result in any of the remedies described in 2 CFR 200.338, Remedies for Noncompliance, including suspension or debarment (see also 2 CFR Part 180).

## **II. Data Availability**

(a) **Applicability.** The Department of the Interior is committed to basing its decisions on the best available science and providing the American people with enough information to thoughtfully and substantively evaluate the data, methodology, and analysis used by the Department to inform its decisions.

(b) **Use of Data.** The regulations at 2 CFR 200.315 apply to data produced under a Federal award, including the provision that the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award as well as authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(c) **Availability of Data.** The recipient shall make the data produced under this award and any subaward(s) available to the Government for public release, consistent with applicable law, to allow meaningful third party evaluation and reproduction of the following:

- (1) The scientific data relied upon;
- (2) The analysis relied upon; and
- (3) The methodology, including models, used to gather and analyze data.

<b>Application for Federal Assistance SF-424</b>		
* 1. Type of Submission: <input type="checkbox"/> Preapplication <input checked="" type="checkbox"/> Application <input type="checkbox"/> Changed/Corrected Application	* 2. Type of Application: <input type="checkbox"/> New <input type="checkbox"/> Continuation <input checked="" type="checkbox"/> Revision	* If Revision, select appropriate letter(s): <input type="text" value="E: Other (specify)"/> * Other (Specify): <input type="text" value="Modify Marina's"/>
* 3. Date Received: <input type="text" value="Completed by Grants.gov upon submission."/>	4. Applicant Identifier: <input type="text" value="OK V-20-D-1 Amd #1"/>	
5a. Federal Entity Identifier: <input type="text"/>	5b. Federal Award Identifier: <input type="text" value="F19AP00437"/>	
<b>State Use Only:</b>		
6. Date Received by State: <input type="text"/>	7. State Application Identifier: <input type="text"/>	
<b>8. APPLICANT INFORMATION:</b>		
* a. Legal Name: <input type="text" value="Oklahoma Department of Environmental Quality"/>		
* b. Employer/Taxpayer Identification Number (EIN/TIN): <input type="text" value="736017987"/>	* c. Organizational DUNS: <input type="text" value="9336015690000"/>	
<b>d. Address:</b>		
* Street1: <input type="text" value="PO Box 1677"/> Street2: <input type="text" value="701 North Robinson"/> * City: <input type="text" value="Oklahoma City"/> County/Parish: <input type="text" value="OK"/> * State: <input type="text" value="OK: Oklahoma"/> Province: <input type="text"/> * Country: <input type="text" value="USA: UNITED STATES"/> * Zip / Postal Code: <input type="text" value="73101.1677"/>		
<b>e. Organizational Unit:</b>		
Department Name: <input type="text"/>	Division Name: <input type="text"/>	
<b>f. Name and contact information of person to be contacted on matters involving this application:</b>		
Prefix: <input type="text" value="Ms."/> Middle Name: <input type="text"/> * Last Name: <input type="text" value="Dirck"/> Suffix: <input type="text"/>	* First Name: <input type="text" value="Cheryl"/>	
Title: <input type="text" value="Environmental Program Specialist"/>		
Organizational Affiliation: <input type="text"/>		
* Telephone Number: <input type="text" value="405.702.8179"/>	Fax Number: <input type="text" value="405.702.8100"/>	
* Email: <input type="text" value="Cheryl.Dirck@deq.ok.gov"/>		

**Application for Federal Assistance SF-424**

**\* 9. Type of Applicant 1: Select Applicant Type:**

A: State Government

Type of Applicant 2: Select Applicant Type:

Type of Applicant 3: Select Applicant Type:

\* Other (specify):

**\* 10. Name of Federal Agency:**

Fish and Wildlife Service

**11. Catalog of Federal Domestic Assistance Number:**

15.616 LF

CFDA Title:

Clean Vessel Act

**\* 12. Funding Opportunity Number:**

F19AS00240

\* Title:

Clean Vessel Act

**13. Competition Identification Number:**

Title:

**14. Areas Affected by Project (Cities, Counties, States, etc.):**

Add Attachment

Delete Attachment

View Attachment

**\* 15. Descriptive Title of Applicant's Project:**

Pump out of Oklahoma Marina with mobile boat pump out station

Attach supporting documents as specified in agency instructions.

Add Attachments

Delete Attachments

View Attachments

**Application for Federal Assistance SF-424**

**16. Congressional Districts Of:**

\* a. Applicant

\* b. Program/Project

Attach an additional list of Program/Project Congressional Districts if needed.

Add Attachment

Delete Attachment

View Attachment

**17. Proposed Project:**

\* a. Start Date:  LF

\* b. End Date:

**18. Estimated Funding (\$):**

* a. Federal	<input type="text" value="0 489,793.50"/>
* b. Applicant	<input type="text" value="0.00"/>
* c. State	<input type="text" value="0 163,234.50"/>
* d. Local	<input type="text" value="0.00"/>
* e. Other	<input type="text" value="0.00"/>
* f. Program Income	<input type="text" value="0.00"/>
* g. TOTAL	<input type="text" value="0 652,938.00"/>

-koa. Amd for change of scope only. No additional funds requested.

**\* 19. Is Application Subject to Review By State Under Executive Order 12372 Process?**

a. This application was made available to the State under the Executive Order 12372 Process for review on .

b. Program is subject to E.O. 12372 but has not been selected by the State for review.

c. Program is not covered by E.O. 12372.

**\* 20. Is the Applicant Delinquent On Any Federal Debt? (If "Yes," provide explanation in attachment.)**

Yes  No

If "Yes", provide explanation and attach

Add Attachment

Delete Attachment

View Attachment

**21. \*By signing this application, I certify (1) to the statements contained in the list of certifications\*\* and (2) that the statements herein are true, complete and accurate to the best of my knowledge. I also provide the required assurances\*\* and agree to comply with any resulting terms if I accept an award. I am aware that any false, fictitious, or fraudulent statements or claims may subject me to criminal, civil, or administrative penalties. (U.S. Code, Title 218, Section 1001)**

\*\* I AGREE

\*\* The list of certifications and assurances, or an internet site where you may obtain this list, is contained in the announcement or agency specific instructions.

**Authorized Representative:**

Prefix:  \* First Name:

Middle Name:

\* Last Name:

Suffix:

\* Title:

\* Telephone Number:  Fax Number:

\* Email:

\* Signature of Authorized Representative:

\* Date Signed:

Ref: Wildlife & Sport Fish Restoration Federal Compliance Approval for OK V-20-D-1 CVA Pump-outs Amd #1

**Approach:**

The Oklahoma Department of Environmental Quality received notice that 2 of the 6 previously approved projects under CVA Grant OK V-20-D-1 will not be using the award funds. Strayhorn Marina will be replacing the Arrowhead Yacht Club on Grand Lake and Eufaula Cove on Lake Eufaula award money for pump-out station funds. This Amendment will offer the funds to the new marina, Strayhorn Marina on Lake Tenkiller.

Strayhorn Marina is located on the lower southwest side of Lake Tenkiller and has the capability to hold up to 258 boats. Approximately 15% of the boats at the marina contain on board sanitary facilities. The closest pump-out facility is more than 2 miles from the marina. The scope of this project consists of building one floating dock that holds two ADA approved restrooms along with pump system to transfer waste to an existing septic tank. The marina is also installing a new 1000 gallon septic tank with a transfer pump.

**Endangered Species Act:**

No Effect to listed species or designated critical habitat. (see attached Intra-Service Section 7). Installation, operation, and maintenance activities of pump-out facilities will be restricted to existing marina structures and will not result in land/water or habitat disturbance.

**NEPA:**

No extraordinary circumstances were triggered by this project so NEPA compliance for these projects has been determined by WSFR to be a categorical exclusion as provided by 516 DM 8, Appendix 1 and/or 516 DM 2, Appendix 1. B(2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

B(3) - The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area.

**NHPA:**

No construction and/or ground disturbing activities are being proposed at this time. No consultation is needed for the purchase and installation of CVA pumpouts.

**CWA:**

N/A



\_\_\_\_\_  
Grant Manager

1/30/2020

Date

## INTRA-SERVICE SECTION 7 BIOLOGICAL EVALUATION FORM

**Originating Person:** Kelly Oliver-Amy

**Telephone Number:** 505-248-7457

**Date:** 01/28/2020

**Grant:** OK V-20-D-1 CVA Pump-outs Amd #1 (Add Strayhorn Marina, remove Arrowhead Yacht Club and Eufaula Cove)

**I. Region:** Southwest Region 2

**II. Service Activity (Program):** Clean Vessel Act, WSFR

### III. Pertinent Species and Habitat:

#### A. Listed Species and/or Their Critical Habitat within the Action Area:

Piping Plover (*Charadrius melodus*) – Threatened

Red Knot (*Calidris canutus rufa*) – Threatened

Interior Least Tern (*Sternula antillarum*) – Endangered

Neosho Mucket (*Lampsilis rafinesqueana*) – Endangered

Rabbitsfoot (*Quadrula cylindrical cylindrica*) – Threatened

Indiana Bat (*Myotis sodalis*) – Endangered

Gray Bat (*Myotis grisescens*) – Endangered

Ozark Big-Eared Bat (*Corynorhinus=Plecotus townsendii ingens*) – Endangered

Northern Long-Eared Bat (*Myotis septentrionalis*) – Threatened

American Burying Beetle (*Nicrophorus americanus*) – Endangered

#### B. Proposed Species and/or Proposed Critical Habitat within the Action Area:

None

#### C. Candidate Species within the Action Area:

None

### IV. Geographic Area and Action:

Strayhorn Marina is located on the lower southwest side of Lake Tenkiller (Latitude 35.615177330, Longitude -95.065599500 degrees). Lake Tenkiller is located in Northeast Oklahoma in the foothills of the Ozark Mountains. The lake has over 13,000 surface acres of water and 130 miles of shoreline, which are ideal for recreational activities.

### V. Location:

**A. Ecoregion:** (FWS only)

**B. County and State:** Cherokee and Sequoyah Counties, OK

**C. Section, Township, and Range (or Latitude and Longitude):** Lake Tenkiller  
(Latitude 35.615177330, Longitude -95.065599500 degrees)

**D. Distance (Miles) and Direction to Nearest Town:**

**VI. Description of Proposed Action:**

The Oklahoma Department of Environmental Quality received notice that 2 of the 6 previously approved projects under this CVA Grant (OK V-20-D-1) will not be using the award funds. Strayhorn Marina will be replacing the Arrowhead Yacht Club on Grand Lake and Eufaula Cove on Lake Eufaula award money for pump-out station funds. This Amendment will offer the funds to the new marina, Strayhorn Marina on Lake Tenkiller.

Strayhorn Marina is located on the lower southwest side of Lake Tenkiller and has the capability to hold up to 258 boats. Approximately 15% of the boats at the marina contain on board sanitary facilities. The closest pump-out facility is more than 2 miles from the marina. The scope of this project consists of building one floating dock that holds two ADA approved restrooms along with pump system to transfer waste to an existing septic tank. The marina is also installing a new 1000-gallon septic tank with a transfer pump. Strayhorn Marina is requesting Clean Vessel Act assistance to help with the costs of these projects to upgrade the area and because the marina does not have working restrooms on sight.

**VII. Determination of Effects:**

**A. Explanation of effects of the action:** No listed, proposed, or candidate species and/or critical habitat are found within the project sites. Project activities will not impact any vegetation, wetlands, sandbars, shorelines or riverine habitats where listed shorebirds or other migratory birds may occur.

No activities associated with this grant will occur within or near bat hibernacula or roost trees; therefore, no impacts to listed bats will occur. The Neosho Mucket and Rabbitsfoot are also not found at the project sites in the reservoirs. These mussels are associated with shallow riffles in stable gravel substrate in moderate to swift currents in rivers and creeks. The marina is located in lentic water at depths >13 feet.

American burying beetle (ABB) is not found at project location in man-made structures over water. There will be no effect to ABB.

Installation, operation, and maintenance activities of pump-out facilities will be restricted to existing marina structures and will not result in land/water/vegetation disturbance. Some noise effects may occur during installation and/or operation, but these will be temporary in nature. No listed species or habitat occur within each marina facility. Therefore, no impacts to listed species or habitats are anticipated for any of these activities.

**B. Actions to be implemented to reduce adverse effects:**

Marina areas will be visually inspected prior to any installation/ maintenance activities to ensure no listed species would be impacted. In the unlikely event that any listed species are encountered during CVA pump-out installation or during operations and maintenance activities, the marina will cease CVA pump out activities at that location and coordinate with the OK DEQ and OK ESFO.

**VIII. Effect determination and response requested:  
State Recommendation:**

**A. Listed species/designated critical habitat:**

**no effect:  
may affect, is not likely to adversely affect:  
may affect, is likely to adversely affect:  
undetermined effect:**

**B. Proposed species/proposed critical habitat:**

**no effect:  
may affect, is not likely to jeopardize proposed species/adversely modify  
proposed critical habitat:  
may affect, is likely to jeopardize proposed species/adversely modify proposed  
critical habitat:  
undetermined effect:**

**C. Candidate species:**

**no effect:  
may affect, is not likely to jeopardize:  
may affect, is likely to jeopardize:  
undetermined effect:**

**Federal Assistance Determination:**

**A. Listed species/designated critical habitat:**

**Determination**

**Response requested**

**no effect:** No designated CH within the project area.  
Interior Least Tern (*Sternula antillarum*) – Endangered  
Plover (*Charadrius melodus*) – Threatened  
Red Knot (*Calidris canutus rufa*) – Threatened  
Indiana Bat (*Myotis sodalis*) – Endangered  
Gray Bat (*Myotis grisescens*) - Endangered  
Ozark Big-Eared Bat (*Corynorhinus=Plecotus townsendii ingens*) - Endangered  
Northern Long-Eared Bat (*Myotis septentrionalis*) - Threatened  
Neosho Mocket (*Lampsilis rafinesqueana*) – Endangered  
Rabbitsfoot (*Quadrula cylindrical cylindrica*) – Threatened  
American Burying Beetle (*Nicrophorus americanus*) – Endangered

**may affect, is not likely to adversely affect:**

       **Concurrence**

**may affect, is likely to adversely affect:**

       **Formal Consultation**

**B. Proposed species/proposed critical habitat:**

**Determination**

**Response requested**

**no effect:**

    **Concurrence**

**is not likely to jeopardize proposed species/  
adversely modify proposed critical habitat:**

    **Concurrence**

**is likely to jeopardize proposed species/  
adversely modify proposed critical habitat:**

    **Conference**

**undetermined effect:**

    **Informal Consultation**

**C. Candidate species:**

**no effect:**

    **Concurrence**

**is not likely to jeopardize:**

    **Concurrence**

**is likely to jeopardize:**

    **Conference**

undetermined effect:

     Informal Consultation

**D. Remarks:**

**Federal Assistance Grant Manager**



\_\_\_\_\_  
**Signature**

1/29/2020

\_\_\_\_\_  
**Date**



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Oklahoma Ecological Services Field Office  
9014 East 21st Street  
Tulsa, OK 74129-1428  
Phone: (918) 581-7458 Fax: (918) 581-7467  
<http://www.fws.gov/southwest/es/Oklahoma/>

In Reply Refer To:

January 28, 2020

Consultation Code: 02EKOK00-2020-SLI-0803

Event Code: 02EKOK00-2020-E-02026

Project Name: Strayhorn Marina-Lake Tenkiller CVA (OK V-20-D-1)

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Non-federal entities conducting activities that may result in take of listed species should consider seeking coverage under section 10 of the ESA, either through development of a Habitat Conservation Plan (HCP) or, by becoming a signatory to the General Conservation Plan (GCP) currently under development for the American burying beetle. Each of these mechanisms provides the means for obtaining a permit and coverage for incidental take of listed species during otherwise lawful activities.

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit through our Project Review step-wise process <http://www.fws.gov/southwest/es/oklahoma/OKESFO%20Permit%20Home.htm>.

---

Attachment(s):

- Official Species List
  - USFWS National Wildlife Refuges and Fish Hatcheries
  - Migratory Birds
  - Wetlands
-

# Official Species List

This list is provided pursuant to Section 7 of the Endangered Species Act, and fulfills the requirement for Federal agencies to "request of the Secretary of the Interior information whether any species which is listed or proposed to be listed may be present in the area of a proposed action".

This species list is provided by:

**Oklahoma Ecological Services Field Office**

9014 East 21st Street

Tulsa, OK 74129-1428

(918) 581-7458

---

## Project Summary

Consultation Code: 02EKOK00-2020-SLI-0803

Event Code: 02EKOK00-2020-E-02026

Project Name: Strayhorn Marina-Lake Tenkiller CVA (OK V-20-D-1)

Project Type: Federal Grant / Loan Related

Project Description: Strayhorn Marina is located on the lower southwest side of Lake Tenkiller (Latitude 35.615177330, Longitude -95.065599500 degrees)

Project Location:

Approximate location of the project can be viewed in Google Maps: <https://www.google.com/maps/place/35.61927704743N95.05216099311946W>



Counties: Cherokee, OK | Sequoyah, OK

---

## Endangered Species Act Species

There is a total of 10 threatened, endangered, or candidate species on this species list.

Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species.

IPaC does not display listed species or critical habitats under the sole jurisdiction of NOAA Fisheries<sup>1</sup>, as USFWS does not have the authority to speak on behalf of NOAA and the Department of Commerce.

See the "Critical habitats" section below for those critical habitats that lie wholly or partially within your project area under this office's jurisdiction. Please contact the designated FWS office if you have questions.

- 
1. [NOAA Fisheries](#), also known as the National Marine Fisheries Service (NMFS), is an office of the National Oceanic and Atmospheric Administration within the Department of Commerce.

## Mammals

NAME	STATUS
Gray Bat <i>Myotis grisescens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/6329">https://ecos.fws.gov/ecp/species/6329</a>	Endangered
Indiana Bat <i>Myotis sodalis</i> There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat. Species profile: <a href="https://ecos.fws.gov/ecp/species/5949">https://ecos.fws.gov/ecp/species/5949</a>	Endangered
Northern Long-eared Bat <i>Myotis septentrionalis</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/9045">https://ecos.fws.gov/ecp/species/9045</a>	Threatened
Ozark Big-eared Bat <i>Corynorhinus (=Plecotus) townsendii ingens</i> No critical habitat has been designated for this species. Species profile: <a href="https://ecos.fws.gov/ecp/species/7245">https://ecos.fws.gov/ecp/species/7245</a>	Endangered

---

## Birds

NAME	STATUS
<p>Least Tern <i>Sterna antillarum</i>            Population: interior pop.            No critical habitat has been designated for this species.            Species profile: <a href="https://ecos.fws.gov/ecp/species/8505">https://ecos.fws.gov/ecp/species/8505</a></p>	Endangered
<p>Piping Plover <i>Charadrius melodus</i>            Population: [Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.            There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat.            Species profile: <a href="https://ecos.fws.gov/ecp/species/6039">https://ecos.fws.gov/ecp/species/6039</a></p>	Threatened
<p>Red Knot <i>Calidris canutus rufa</i>            No critical habitat has been designated for this species.            Species profile: <a href="https://ecos.fws.gov/ecp/species/1864">https://ecos.fws.gov/ecp/species/1864</a></p>	Threatened

## Clams

NAME	STATUS
<p>Neosho Mucket <i>Lampsilis rafinesqueana</i>            There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat.            Species profile: <a href="https://ecos.fws.gov/ecp/species/3788">https://ecos.fws.gov/ecp/species/3788</a></p>	Endangered
<p>Rabbitsfoot <i>Quadrula cylindrica cylindrica</i>            There is <b>final</b> critical habitat for this species. Your location is outside the critical habitat.            Species profile: <a href="https://ecos.fws.gov/ecp/species/5165">https://ecos.fws.gov/ecp/species/5165</a></p>	Threatened

## Insects

NAME	STATUS
<p>American Burying Beetle <i>Nicrophorus americanus</i>            Population: Wherever found, except where listed as an experimental population            No critical habitat has been designated for this species.            Species profile: <a href="https://ecos.fws.gov/ecp/species/66">https://ecos.fws.gov/ecp/species/66</a></p>	Endangered

## Critical habitats

THERE ARE NO CRITICAL HABITATS WITHIN YOUR PROJECT AREA UNDER THIS OFFICE'S JURISDICTION.

# USFWS National Wildlife Refuge Lands And Fish Hatcheries

Any activity proposed on lands managed by the [National Wildlife Refuge](#) system must undergo a 'Compatibility Determination' conducted by the Refuge. Please contact the individual Refuges to discuss any questions or concerns.

THERE ARE NO REFUGE LANDS OR FISH HATCHERIES WITHIN YOUR PROJECT AREA.

---

# Migratory Birds

Certain birds are protected under the Migratory Bird Treaty Act<sup>1</sup> and the Bald and Golden Eagle Protection Act<sup>2</sup>.

Any person or organization who plans or conducts activities that may result in impacts to migratory birds, eagles, and their habitats should follow appropriate regulations and consider implementing appropriate conservation measures, as described [below](#).

- 
1. The [Migratory Birds Treaty Act](#) of 1918.
  2. The [Bald and Golden Eagle Protection Act](#) of 1940.
  3. 50 C.F.R. Sec. 10.12 and 16 U.S.C. Sec. 668(a)

The birds listed below are birds of particular concern either because they occur on the [USFWS Birds of Conservation Concern](#) (BCC) list or warrant special attention in your project location. To learn more about the levels of concern for birds on your list and how this list is generated, see the FAQ [below](#). This is not a list of every bird you may find in this location, nor a guarantee that every bird on this list will be found in your project area. To see exact locations of where birders and the general public have sighted birds in and around your project area, visit the [E-bird data mapping tool](#) (Tip: enter your location, desired date range and a species on your list). For projects that occur off the Atlantic Coast, additional maps and models detailing the relative occurrence and abundance of bird species on your list are available. Links to additional information about Atlantic Coast birds, and other important information about your migratory bird list, including how to properly interpret and use your migratory bird report, can be found [below](#).

For guidance on when to schedule activities or implement avoidance and minimization measures to reduce impacts to migratory birds on your list, click on the PROBABILITY OF PRESENCE SUMMARY at the top of your list to see when these birds are most likely to be present and breeding in your project area.

NAME	BREEDING SEASON
<b>Bald Eagle <i>Haliaeetus leucocephalus</i></b> This is not a Bird of Conservation Concern (BCC) in this area, but warrants attention because of the Eagle Act or for potential susceptibilities in offshore areas from certain types of development or activities. <a href="https://ecos.fws.gov/ecp/species/1626">https://ecos.fws.gov/ecp/species/1626</a>	Breeds Sep 1 to Jul 31
<b>Red-headed Woodpecker <i>Melanerpes erythrocephalus</i></b> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds May 10 to Sep 10

---

NAME	BREEDING SEASON
Rusty Blackbird <i>Euphagus carolinus</i> This is a Bird of Conservation Concern (BCC) throughout its range in the continental USA and Alaska.	Breeds elsewhere

## Probability Of Presence Summary

The graphs below provide our best understanding of when birds of concern are most likely to be present in your project area. This information can be used to tailor and schedule your project activities to avoid or minimize impacts to birds. Please make sure you read and understand the FAQ “Proper Interpretation and Use of Your Migratory Bird Report” before using or attempting to interpret this report.

### Probability of Presence (■)

Each green bar represents the bird's relative probability of presence in the 10km grid cell(s) your project overlaps during a particular week of the year. (A year is represented as 12 4-week months.) A taller bar indicates a higher probability of species presence. The survey effort (see below) can be used to establish a level of confidence in the presence score. One can have higher confidence in the presence score if the corresponding survey effort is also high.

How is the probability of presence score calculated? The calculation is done in three steps:

1. The probability of presence for each week is calculated as the number of survey events in the week where the species was detected divided by the total number of survey events for that week. For example, if in week 12 there were 20 survey events and the Spotted Towhee was found in 5 of them, the probability of presence of the Spotted Towhee in week 12 is 0.25.
2. To properly present the pattern of presence across the year, the relative probability of presence is calculated. This is the probability of presence divided by the maximum probability of presence across all weeks. For example, imagine the probability of presence in week 20 for the Spotted Towhee is 0.05, and that the probability of presence at week 12 (0.25) is the maximum of any week of the year. The relative probability of presence on week 12 is  $0.25/0.25 = 1$ ; at week 20 it is  $0.05/0.25 = 0.2$ .
3. The relative probability of presence calculated in the previous step undergoes a statistical conversion so that all possible values fall between 0 and 10, inclusive. This is the probability of presence score.

### Breeding Season (■)

Yellow bars denote a very liberal estimate of the time-frame inside which the bird breeds across its entire range. If there are no yellow bars shown for a bird, it does not breed in your project area.

### Survey Effort (|)

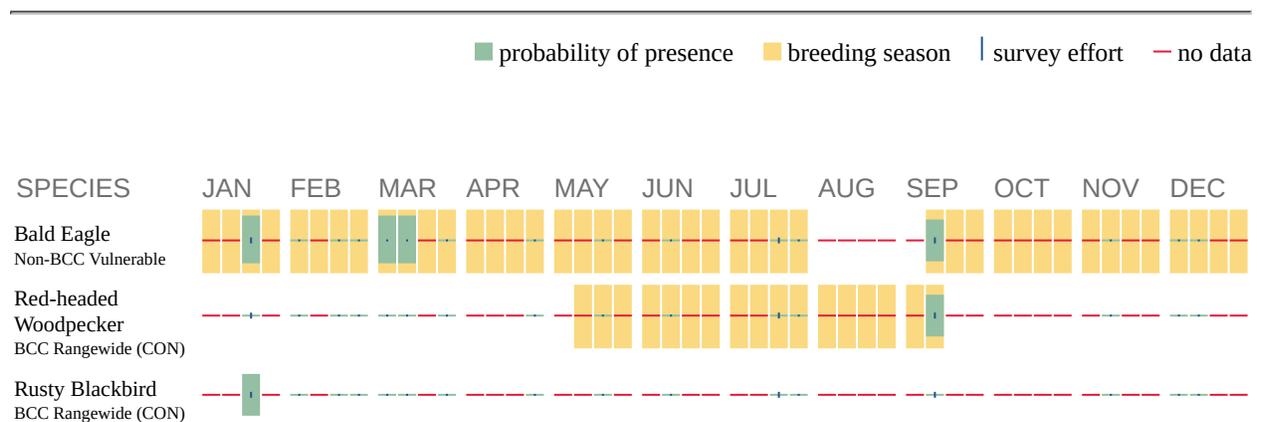
Vertical black lines superimposed on probability of presence bars indicate the number of surveys performed for that species in the 10km grid cell(s) your project area overlaps. The number of surveys is expressed as a range, for example, 33 to 64 surveys.

### No Data (—)

A week is marked as having no data if there were no survey events for that week.

### Survey Timeframe

Surveys from only the last 10 years are used in order to ensure delivery of currently relevant information. The exception to this is areas off the Atlantic coast, where bird returns are based on all years of available data, since data in these areas is currently much more sparse.



Additional information can be found using the following links:

- Birds of Conservation Concern <http://www.fws.gov/birds/management/managed-species/birds-of-conservation-concern.php>
- Measures for avoiding and minimizing impacts to birds <http://www.fws.gov/birds/management/project-assessment-tools-and-guidance/conservation-measures.php>
- Nationwide conservation measures for birds <http://www.fws.gov/migratorybirds/pdf/management/nationwidestandardconservationmeasures.pdf>

## Migratory Birds FAQ

**Tell me more about conservation measures I can implement to avoid or minimize impacts to migratory birds.**

[Nationwide Conservation Measures](#) describes measures that can help avoid and minimize impacts to all birds at any location year round. Implementation of these measures is particularly important when birds are most likely to occur in the project area. When birds may be breeding in the area, identifying the locations of any active nests and avoiding their destruction is a very helpful impact minimization measure. To see when birds are most likely to occur and be breeding

in your project area, view the Probability of Presence Summary. [Additional measures](#) and/or [permits](#) may be advisable depending on the type of activity you are conducting and the type of infrastructure or bird species present on your project site.

### **What does IPaC use to generate the migratory birds potentially occurring in my specified location?**

The Migratory Bird Resource List is comprised of USFWS [Birds of Conservation Concern \(BCC\)](#) and other species that may warrant special attention in your project location.

The migratory bird list generated for your project is derived from data provided by the [Avian Knowledge Network \(AKN\)](#). The AKN data is based on a growing collection of [survey, banding, and citizen science datasets](#) and is queried and filtered to return a list of those birds reported as occurring in the 10km grid cell(s) which your project intersects, and that have been identified as warranting special attention because they are a BCC species in that area, an eagle ([Eagle Act](#) requirements may apply), or a species that has a particular vulnerability to offshore activities or development.

Again, the Migratory Bird Resource list includes only a subset of birds that may occur in your project area. It is not representative of all birds that may occur in your project area. To get a list of all birds potentially present in your project area, please visit the [AKN Phenology Tool](#).

### **What does IPaC use to generate the probability of presence graphs for the migratory birds potentially occurring in my specified location?**

The probability of presence graphs associated with your migratory bird list are based on data provided by the [Avian Knowledge Network \(AKN\)](#). This data is derived from a growing collection of [survey, banding, and citizen science datasets](#).

Probability of presence data is continuously being updated as new and better information becomes available. To learn more about how the probability of presence graphs are produced and how to interpret them, go the Probability of Presence Summary and then click on the "Tell me about these graphs" link.

### **How do I know if a bird is breeding, wintering, migrating or present year-round in my project area?**

To see what part of a particular bird's range your project area falls within (i.e. breeding, wintering, migrating or year-round), you may refer to the following resources: [The Cornell Lab of Ornithology All About Birds Bird Guide](#), or (if you are unsuccessful in locating the bird of interest there), the [Cornell Lab of Ornithology Neotropical Birds guide](#). If a bird on your migratory bird species list has a breeding season associated with it, if that bird does occur in your project area, there may be nests present at some point within the timeframe specified. If "Breeds elsewhere" is indicated, then the bird likely does not breed in your project area.

### **What are the levels of concern for migratory birds?**

---

Migratory birds delivered through IPaC fall into the following distinct categories of concern:

1. "BCC Rangewide" birds are [Birds of Conservation Concern](#) (BCC) that are of concern throughout their range anywhere within the USA (including Hawaii, the Pacific Islands, Puerto Rico, and the Virgin Islands);
2. "BCC - BCR" birds are BCCs that are of concern only in particular Bird Conservation Regions (BCRs) in the continental USA; and
3. "Non-BCC - Vulnerable" birds are not BCC species in your project area, but appear on your list either because of the [Eagle Act](#) requirements (for eagles) or (for non-eagles) potential susceptibilities in offshore areas from certain types of development or activities (e.g. offshore energy development or longline fishing).

Although it is important to try to avoid and minimize impacts to all birds, efforts should be made, in particular, to avoid and minimize impacts to the birds on this list, especially eagles and BCC species of rangewide concern. For more information on conservation measures you can implement to help avoid and minimize migratory bird impacts and requirements for eagles, please see the FAQs for these topics.

### **Details about birds that are potentially affected by offshore projects**

For additional details about the relative occurrence and abundance of both individual bird species and groups of bird species within your project area off the Atlantic Coast, please visit the [Northeast Ocean Data Portal](#). The Portal also offers data and information about other taxa besides birds that may be helpful to you in your project review. Alternately, you may download the bird model results files underlying the portal maps through the [NOAA NCCOS Integrative Statistical Modeling and Predictive Mapping of Marine Bird Distributions and Abundance on the Atlantic Outer Continental Shelf](#) project webpage.

Bird tracking data can also provide additional details about occurrence and habitat use throughout the year, including migration. Models relying on survey data may not include this information. For additional information on marine bird tracking data, see the [Diving Bird Study](#) and the [nanotag studies](#) or contact [Caleb Spiegel](#) or [Pam Loring](#).

### **What if I have eagles on my list?**

If your project has the potential to disturb or kill eagles, you may need to [obtain a permit](#) to avoid violating the Eagle Act should such impacts occur.

### **Proper Interpretation and Use of Your Migratory Bird Report**

The migratory bird list generated is not a list of all birds in your project area, only a subset of birds of priority concern. To learn more about how your list is generated, and see options for identifying what other birds may be in your project area, please see the FAQ "What does IPaC use to generate the migratory birds potentially occurring in my specified location". Please be aware this report provides the "probability of presence" of birds within the 10 km grid cell(s) that overlap your project; not your exact project footprint. On the graphs provided, please also look carefully at the survey effort (indicated by the black vertical bar) and for the existence of the "no data" indicator (a red horizontal bar). A high survey effort is the key component. If the survey effort is high, then the probability of presence score can be viewed as more dependable. In

---

contrast, a low survey effort bar or no data bar means a lack of data and, therefore, a lack of certainty about presence of the species. This list is not perfect; it is simply a starting point for identifying what birds of concern have the potential to be in your project area, when they might be there, and if they might be breeding (which means nests might be present). The list helps you know what to look for to confirm presence, and helps guide you in knowing when to implement conservation measures to avoid or minimize potential impacts from your project activities, should presence be confirmed. To learn more about conservation measures, visit the FAQ “Tell me about conservation measures I can implement to avoid or minimize impacts to migratory birds” at the bottom of your migratory bird trust resources page.

---

# Wetlands

Impacts to [NWI wetlands](#) and other aquatic habitats may be subject to regulation under Section 404 of the Clean Water Act, or other State/Federal statutes.

For more information please contact the Regulatory Program of the local [U.S. Army Corps of Engineers District](#).

Please note that the NWI data being shown may be out of date. We are currently working to update our NWI data set. We recommend you verify these results with a site visit to determine the actual extent of wetlands on site.

## FRESHWATER EMERGENT WETLAND

- [PEM1Ch](#)

## FRESHWATER FORESTED/SHRUB WETLAND

- [PFO1A](#)

## FRESHWATER POND

- [PUBH](#)
- [PUBHh](#)
- [PUBHx](#)

## LAKE

- [L1UBHh](#)
- [L2USCh](#)

## RIVERINE

- [R4SBC](#)
  - [R5UBF](#)
-

**Memorandum**

To: File – *Wildlife and Sport Fish Restoration Program, OK V-20-D-1*  
From: Kelly Oliver-Amy, *Grant Manager, Region 2, WSFR*  
Subject: Environmental Action Statement: *CVA Pump-outs Amd #1*

Within the spirit and intent of the Council on Environmental Quality’s regulations for implementing the National Environmental Policy Act (NEPA) and other statutes, orders, and policies that protect fish and wildlife resources, I have established the following administrative record and have determined that the proposed action does not individually or cumulatively have a significant effect on the human environment. Therefore, this action is Categorical Excluded from NEPA documentation requirements (i.e., preparation of an Environmental Assessment or Environmental Impact Statement) consistent with guidance provided in 43 CFR 46.210, 43 CFR 46.215, and 516 DM 8.5. No further NEPA documentation will therefore be made.

**Proposed Action Description:** The Oklahoma Department of Environmental Quality received notice that 2 of the 6 previously approved projects under CVA Grant OK V-20-D-1 will not be using the award funds. Strayhorn Marina will be replacing the Arrowhead Yacht Club on Grand Lake and Eufaula Cove on Lake Eufaula award money for pump-out station funds. This Amendment will offer the funds to the new marina, Strayhorn Marina on Lake Tenkiller.

**Extraordinary Circumstances:** I have also reviewed the extraordinary circumstances listed below and determined that none are applicable to the proposed action.

**Yes No Will the Proposed Action:**

---

- |                          |                                     |  |
|--------------------------|-------------------------------------|--|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (a) Have significant impacts on public health or safety.   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (b) Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (c) Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA section 102 (2) (E)].   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (d) Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (e) Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (f) Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.  |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | (g) Have significant impacts on properties listed, or eligible for listing, on the National Register of Historic Places as determined by the bureau.   |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |  |

**CONSIDER THIS MEMO AS DOCUMENTATION**

(h) Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

(i) Violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment.

(j) Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

(k) Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).

(l) Contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

**Categorical Exclusion:** The Categorical Exclusions listed below are excerpted from the Department of the Interior's Departmental Manual for the Fish and Wildlife Service 516 DM 8.5, and are often applicable for habitat restoration projects. The Categorical Exclusion(s) checked below apply(*ies*) to the proposed action:

A (1) Changes or amendments to an approved action when such changes have no or minor potential environmental impact.

A (2) Personnel training, environmental interpretation, public safety efforts, and other educational activities, which do not involve new construction or major additions to existing facilities..

A (3) The issuance and modification of procedures, including manuals, orders, guidelines, and field instructions, when the impacts are limited to administrative effects.

A (4) The acquisition of real property obtained either through discretionary acts or when acquired by law, whether by way of condemnation, donation, escheat, right-of-entry, escrow, exchange, lapses, purchase, or transfer and that will be under the jurisdiction or control of the United States. Such acquisition of real property shall be in accordance with 602 DM 2 and the Service's procedures, when the acquisition is from a willing seller, continuance of or minor modification to the existing land use is planned, and the acquisition planning process has been performed in coordination with the affected public.

B (1) Research, inventory, and information collection activities directly related to the conservation of fish and wildlife resources which involve negligible animal mortality or habitat destruction, no introduction of contaminants, or no introduction of organisms not indigenous to the affected ecosystem.

B (2) The operation, maintenance, and management of existing facilities and routine recurring management activities and improvements, including renovations and replacements which result in no or only minor changes in the use, and have no or negligible environmental effects on-site or in the vicinity of the site.

B (3) The construction of new, or the addition of, small structures or improvements, including structures and improvements for the restoration of wetland, riparian, instream, or native habitats, which result in no or only minor changes in the use of the affected local area. The following are examples of activities that may be included:

A) The installation of fences.

B) The construction of small water control structures.

C) The planting of seeds or seedlings and other minor revegetation actions.

D) The construction of small berms or dikes.

E) The development of limited access for routine maintenance and management purposes.

B (4) The use of prescribed burning for habitat improvement purposes, when conducted in accordance with local and State ordinances and laws.

**CONSIDER THIS MEMO AS DOCUMENTATION**

- B (5) Fire management activities, including prevention and restoration measures, when conducted in accordance with departmental and Service procedures.
- B (6) The reintroduction or supplementation (e.g. stocking) of native, formerly native, or established species into suitable habitat within their historic or established range, where no or negligible environmental disturbances are anticipated.
- B (7) Minor changes in the amounts or types of public use on Service or State-managed lands, in accordance with existing regulations, management plans, and procedures.
- B (8) Consultation and technical assistance activities directly related to the conservation of fish and wildlife resources.
- B (9) Minor changes in existing master plans, comprehensive conservation plans, or operations, when no or minor effects are anticipated. Examples could include minor changes in the type and location of compatible public use activities and land management practices.
- B (10) The issuance of new or revised site, unit, or activity-specific management plans for public use, land use, or other management activities when only minor changes are planned. Examples could include an amended public use plan or fire management plan.
- B (11) Natural resource damage assessment restoration plans, prepared under sections 107, 111, and 122(j) of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA); section 311(f)(4) of the Clean Water Act; and the Oil Pollution Act; when only minor or negligible change in the use of the affected areas is planned.
- C (8) Actions where the Service has concurrence or coapproval with another agency and the action is a categorical exclusion for that agency. This would normally involve one Federal action or connected actions where the Service is a cooperating agency.
- E (1) State, local, or private financial assistance (grants and/or cooperative agreements), including State planning grants and private land restorations, where the environmental effects are minor or negligible.
- E (2) Grants for categorically excluded actions in paragraphs A, B, and C, above; and categorically excluded actions in 43 CFR 46.210.

**Supporting Documents:** All environmental compliance documentation is contained in the project files located in the Region 2, Wildlife and Sport Fish Restoration.

  
\_\_\_\_\_  
Grant Manager

1/30/2020  
\_\_\_\_\_  
Date